

## **IPR TOOLKIT – GHANA**

### **Statement from Ambassador Donald Teitelbaum**

I am pleased to present the U.S. Embassy Accra's Intellectual Property Rights (IPR) Toolkit for Ghana (Toolkit), a document that details the nature of IPR protection and enforcement in Ghana and helps U.S. businesses to protect their rights. This Toolkit contains practical information on how the Government of Ghana registers and enforces IPR and how rights-holders can work with the government to protect their rights.

In recent years, Ghana has built its capacity to protect Ghanaian as well as foreign IPR, offering good opportunities for U.S. firms. In the area of IPR enforcement, however, U.S. firms face challenges in Ghana. Infringement spans every sector of the economy and impacts both the economic revenues of companies and the health and safety of the Ghanaian consumer.

The Ghanaian Government is currently working to institute a more streamlined IPR protection regime and further recognizes the need to strengthen its IPR enforcement measures. The increasing dangers of infringing products and Ghana's promising future as the gateway to Africa have created strong incentives for maximizing the effectiveness of the country's IPR regime. In the spirit of President Obama's address to the Ghanaian parliament in which he challenged African states to ensure good governance and the rule of law for the betterment of their citizens, Ghana has undertaken to improve its IPR enforcement. The U.S. Mission has taken an active role in assisting Ghana in this venture, including sponsoring public awareness workshops for Ghanaian journalists and programs for Ghana's legal and regulatory officials.

This Toolkit is intended to provide an overview of Ghana's IPR environment, available enforcement mechanisms and Ghanaian government offices sharing jurisdiction over IPR protection and enforcement. The information provided in this Toolkit does not constitute legal advice and should not be a substitute for the advice of legal counsel. The U.S. Mission will continue to support the extensive overall U.S. Government effort to help Ghana realize an effective IPR regime.

On behalf of the U.S. Mission, I trust that you will find this Toolkit useful in navigating Ghana's IPR environment, and I wish for you success in achieving your business objectives.

Sincerely,

Donald Teitelbaum

## **The State of Intellectual Property Rights in Ghana**

Anti-malarial, allergy, herbal and flu medicines, baby formula, condoms, DVD players, personal music players, game consoles, canned goods, software, home appliances, auto and airplane parts, cosmetics, DVDs and CDs – all are included on the long list of infringing goods sold in Ghana's markets and street stalls. The majority of the infringing goods are manufactured in China, India or Nigeria, with a much smaller amount manufactured within the country. Infringing goods are typically smuggled across Ghana's borders or into port in small allotments, after which they are stockpiled in the cities for distribution and sale. In addition to passing off, piracy and counterfeiting, a growing technique among dealers in infringing products is to stockpile discarded expired goods and transport them to rural villages for sale.

In recent years, the Government of Ghana has publicly prioritized the enforcement of IPR, and the government has pledged to create a separate office specifically charged with the enforcement of IPR. The proposed office will act as an umbrella department by coordinating the enforcement and protective efforts of the Ghana Police Service, the Copyright Administration (Copyright Office), the Food and Drugs Board (FDB), the Registrar-General Department (RGD), the Customs Division of the Ghana Revenue Authority (formerly known as the Customs, Excise and Preventative Service (CEPS)) (Customs) and the Ghana Standards Board (GSB).

Beginning in June 2009, the government began regularly conducting raids aimed at eliminating infringing goods. In the course of these raids (averaging two to three raids a month), each IP enforcement office has worked in conjunction with related ministries and rights-holders. The raids have resulted in the confiscation of infringing goods and the arrests of the sellers of such infringing goods. IP rights-holders have found that the most successful method of protecting their IPR in Ghana involves both a public relations element and a proactive preventive and enforcement element. Enforcement offices conduct regular monitoring exercises, but in practice rely on private rights-holders to initiate investigations.

The government recognizes the devastating effects counterfeiting and piracy has on its population and economy. Ghana's own industries, such as traditional textiles, herbal medicines and Ghanaian music production have been severely affected by counterfeiting and piracy. It is estimated that the country experiences upwards of \$200 million a year in lost revenue due to the sale of infringing goods that undermine legitimate commerce.

At any given time, between 30 percent and 50 percent of pharmaceuticals on the Ghanaian market are either substandard or infringing. Recently, the U.S. President's Malaria Initiative and the World Health Organization assisted the FDB to test the quality of anti-malaria medicines on the market. Nearly 30% of the products failed the first round of testing, leading to the withdrawal of 22 anti-malaria products from the market. In 2009, the FDB also identified a sophisticated counterfeit anti-malarial product and moved swiftly to remove the drug from the market, levied heavy fines and worked with INTERPOL to trace its origin.

These percentages of infringing goods sometimes reach as high as 90 percent for CDs, DVDs and other less sophisticated products. The effects on the Ghanaian market, culture, population and reputation have brought IPR to the forefront of the political discussion in Ghana and have the potential to provide the necessary will to create a more secure market with fewer infringing goods.

Despite significant short-term progress, the long-term success of the government of Ghana's protection and enforcement campaign is currently challenged by a lack of public awareness and reported corruption and inefficiencies in the court systems, police service and the administration of the ports and borders. The inefficiencies faced by the administration of Ghanaian entry points stem from inconsistent training, inadequate inter-administrative coordination and a lack of personnel dedicated to the enforcement of IPR. The effects of these inefficiencies on the IPR environment have the potential to worsen if the incidences of dumping, under-invoicing, counterfeiting and smuggling continue to rise. American businesses can mitigate the current risks facing exporters to the Ghanaian market, however, by taking steps to enforce their IPR.

## **CURRENT INTELLECTUAL PROPERTY LAWS**

In recent years, Ghana has updated its IPR legislation to provide for recognition of additional IPR (*e.g.*, geographical indications) and expansion of existing IPR (*e.g.*, providing protection for certain electronic media in copyright) and has increased enforcement of its IP laws. The most recent revisions of intellectual property laws between 2000 and 2006 have brought Ghana's legislation into compliance with the Trade Related Aspects of Intellectual Property Rights (TRIPS); however, it has yet to amend all relevant laws to bring the country into full compliance. For the most part, Ghana continues to use the rules and regulations promulgated for previous laws, which often results in a disconnect of procedure and enforcement.

With the exception of Copyright Regulations 2010 (L.I. 1962) (effective March 17, 2010), no new regulations exist. Currently, regulations for the Patents Act, the Industrial Designs Act and the Trademarks Act are in draft form, but as of April 2011 had not yet been sent to Parliament. There are no regulations for the Geographical Indications Act or the Layout Designs Act.

Under Ghana's IP laws, infringing parties are liable for both civil and criminal penalties, and rights-holders may pursue remedies through administrative agencies, in civil court or in criminal court. In general, rights-holders have been more successful in enforcing and protecting their IPR through civil rather than criminal means. Civil enforcement permits rights-holders to take on a more proactive role and not have to rely on the criminal justice system, which typically has a longer backlog of cases than the civil courts.

Copies of the laws of Ghana may be purchased from the Ghana Publishing Company Limited, Assembly Press in Accra. You may contact them by telephone at +233 (0)302 664338/9; +233

(0)302 664330, via email at [info@ghanapublishingcompany.com](mailto:info@ghanapublishingcompany.com), or visit their website for more information <http://www.ghanapublishingcompany.com/about%20us.html>.

## **Domestic Legislation**

### *Trademarks Act, 2004 (Act 664)*

Trademark, by value, is currently the most infringed intellectual property right on the Ghanaian market. Recognizing the importance of trademarks and the health and safety risks often implicated in their infringement, the government amended the law in 2004 to rewrite national laws to conform to internationally agreed norms for protecting intellectual property. Upon registering with the RGD, rights-holders are granted the exclusive use of the mark and the capacity to institute a court action against any person who infringes the mark by using it without permission or who performs acts likely to cause infringement, including passing off. Infringing parties are subject to both civil and criminal penalties.

### *Copyright Act, 2005 (Act 690)*

Copyright, by volume, is the most infringed intellectual property right in Ghana. The Copyright Office, working with Customs and the Ghana Police Service, carries out enforcement sweeps, but the dissemination of pirated goods continues to be widespread. In recognition of this, the Ghanaian Parliament passed the Copyright Act, 2005 (Act 690) (Copyright Act) to provide expanded protection, most notably by extending the term of protection from 50 to 70 years after the life of the author. Infringing parties are subject to both civil and criminal penalties. The Copyright Regulations, passed in March 2010, established procedures relating to security devices for sound recordings and audio visual works, established a levy on devices used for reproduction of copyrighted materials, specified powers and jurisdiction for the Copyright Tribunal, outlined procedures for collective administration societies and contains forms necessary for copyright filings. Infringing parties are subject to both civil and criminal penalties.

### *Patents Act, 2003 (Act 657)*

Pursuant to the Patents Act, 2003 (Act 657) (Patents Act), registration of a patent with the RGD confers an exclusive right to the use of the patent by the rights-holder. The Patents Act redefines the scope of protection and what is considered patentable subject matter. Under the Patents Act, any person who makes, imports, exports, offers for sale or is selling or using a patented product or process without the consent of the owner is considered to have committed infringement. Infringing parties are subject to both civil and criminal penalties.

### *Industrial Designs Act, 2003 (Act 660)*

Under the Industrial Designs Act, 2003, (Act 660) (IDA), rights-holders registering their designs with the RGD are afforded an exclusive right to the use of the design. Infringing parties are subject to both civil and criminal penalties.

### *Layout-Designs (Topographies) of Integrated Circuits Act, 2004 (Act 667)*

While topographies of integrated circuits are most often counterfeited in China or India and sold as part of assembled goods in Ghana, the Layout-Designs (Topographies) of Integrated Circuits Act, 2004 (Act 667) (Layout-designs Act) offers protection for the Ghanaian market. Any person who is found to be knowingly selling, distributing, or transporting an infringing integrated circuit is considered to have committed infringement. Infringing parties are subject to both civil and criminal penalties.

### *Geographical Indications Act, 2003 (Act 659)*

Under the Geographical Indications Act, 2003 (GIA), it is an offense to knowingly use a designation likely to mislead the public as to the true origins of products. The GIA recognizes signs as protected geographical indications when they relate to goods that originate from a defined area and have qualities, reputations, or other characteristics which are clearly linked to the geographical origin of goods. Because of a lack of protection, many geographical indications are infringed. The widespread infringement of Ghanaian culture has sensitized the population and the government, and has created an environment in which the GIA has the potential to be consistently enforced. Infringing parties are subject to both civil and criminal penalties.

### *Protection against Unfair Competition Act, 2000 (Act 589)*

The Protection against Unfair Competition Act, 2000 (Act 589) (Unfair Competition Act) entitles rights-holders to civil remedies when a party has purposefully caused confusion, damaged goodwill or misled the public. Further penalties exist under the Unfair Competition Act for trade secret violations. In addition to enumerated offenses, the Unfair Competition Act has a “catch-all”, designed to protect rights-holders and persons from an “act or practice in the course of industrial or commercial activities that is contrary to honest practices”.

There are no individual criminal penalties under the Unfair Competition Act, but a rights-holder may bring an action in the High Court for an injunction to prevent ongoing or further acts that constitute unfair competition, to obtain a provisional order to prevent unlawful acts, to preserve relevant evidence or to request compensation and damages. The High Court may also order additional remedies as it sees fit to address any violations.

Usually, the Unfair Competition Act is invoked alongside other IP rights violations and not as a separate action. IP rights-holders who choose to initiate litigation should consult with local

counsel with experience in business and IP matters in determining whether or not the Unfair Competition Act would apply to any possible court proceeding.

### *Criminal Code 1960 (Act 29)*

The Criminal Code, 1960 (Act 29) (Code) defines a list of types of fraud – including intellectual property fraud. The Code is referenced by the intellectual property laws to define how one may be punished criminally for acts in violation of the respective IP law. Although punishment for IP infringement is normally charged under the relevant IP law, upon occasion an alternative charge under the criminal code is deemed more relevant and the offender is prosecuted under the Code.

### **International Conventions and Agreements**

Ghana is party to the following international organizations, conventions and agreements:

- [The Convention Establishing the World Intellectual Property Organization \(WIPO\);](#)
- [The World Customs Organization;](#)
- [The World Trade Organization \(WTO\) Agreement on Trade-Related Aspects of Intellectual Property Rights \(TRIPS\);](#)
- [The African Regional Industrial Property Organization \(ARIPO\);](#)
- [The Paris Convention for the Protection of Industrial Property \(Paris Convention\);](#)
- [The Universal Copyright Convention \(UCC\);](#)
- [The WIPO Copyright Treaty;](#)
- [The Berne Convention for the Protection of Literary and Artistic Works;](#)
- [The WIPO Performances and Phonogram Treaty](#) (ratified by the Ghanaian Parliament, but not yet lodged with WIPO);
- [The Patent Co-operation Treaty, 1970;](#)
- [The Protocol on Patents and Industrial Designs adopted in 1982 in Harare, Zimbabwe \(Harare Protocol\);](#) and
- [The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks \(Madrid Protocol\).](#)

The most recent revisions of intellectual property laws between 2000 and 2006 have brought Ghana's legislation into compliance with the TRIPS; however, it has yet to amend its laws to bring the country into full compliance. Ghana continues to use the rules and regulations

promulgated for previous laws, which often results in a disconnect of procedure and enforcement.

## **PREVENTIVE MEASURES**

### **Market Entry Planning**

The best strategy for protecting IP in the Ghanaian market is planning. Rights-holders planning on entering the Ghanaian market should develop a comprehensive IPR strategy before entering the Ghanaian market.

#### **First Steps in Market Entry Planning**

- Register trademarks, patents, industrial designs, layout-designs and geographical indications with the RGD prior to entering the market.
- Register copyrights with the Copyright Office prior to entering the market.
- Take steps to prevent unauthorized use of IPR. Apply to the High Court of Ghana for invalidation of any infringing patents and cancellation of any infringing industrial designs, layout designs and geographical indications. Trademark rights-holders may file a claim for relief with the RGD. Copyright owners may file a claim for relief with the Copyright Office.
- Approach Customs and the Commercial Crimes Unit (CCU) of the Criminal Investigation Department (CID) of the Ghana Police Service to establish a relationship, educate and inform them about products and provide training on differentiating infringing goods from authentic goods. It may also be helpful to supply officials with prototypes and to conduct informational training sessions for officers.
- If the goods imported or manufactured in Ghana are health-related or pharmaceuticals, approach the FDB and the GSB to establish a relationship and register goods.
- Consider a public relations campaign, announcing entry into market, advantages of the product or service and how to distinguish infringing goods.
- Contact relevant NGOs that are involved with IPR enforcement and advocacy.
- Engage local counsel. When an applicant's ordinary residence or principal place of business is outside of Ghana, the applicant must be represented by local resident practitioners in order to register a layout-design, industrial design, patent, geographical indication or trademark. Applicants are encouraged to seek out firms that have experience in Ghanaian IP law.

- When contracting with a local partner, carefully consider the entire agreement, especially when sharing of IPR is involved. Non-disclosure agreements, creative ownership and duration and territorial extent of licenses should be examined carefully.
- Contact the American Bar Association (ABA). The U.S. Department of Commerce, in cooperation with the ABA's Section of International Law and the Coalition Against Counterfeiting and Piracy, announced in 2010 the expansion of the International Intellectual Property Rights (IPR) Advisory Program to include expertise on a number of African countries, including Ghana. This program allows American small and medium-sized enterprises (SMEs) to request a free, one-hour consultation with a volunteer attorney knowledgeable in both industry IPR issues and a particular country to learn how to protect and enforce their IPR, such as trademarks, patents or copyrights, in that country. To request a free consultation with an attorney or obtain additional information regarding this program, visit the ABA Section of International Law website: [www.abanet.org/intlaw/intlproj/iprprogram.html](http://www.abanet.org/intlaw/intlproj/iprprogram.html)

## **GHANA'S IPR ENFORCEMENT SYSTEM**

Several governmental agencies and offices are charged with enforcement of IPR in Ghana. These include:

- The Registrar-General Department (RGD);
- The High Court of Ghana;
- The Customs Division of the Ghana Revenue Authority (formerly known as Customs, Excise and Preventative Service (CEPS))(Customs);
- The Commercial Crime Unit (CCU) of the Criminal Investigation Department (CID) of the Ghana Police Service;
- The Ghana Standards Board (GSB); and
- The Food and Drugs Board (FDB).

This list, however, is not exhaustive; other governmental agencies may play a role in the process. Rights-holders are encouraged by every intellectual property office to work directly and proactively with the offices to better protect and enforce their rights. Often, the cooperation and coordination with several of these entities is required for successful IPR enforcement. Note that in most instances, administrative agencies cannot award compensation to a rights-holder. They can, however, seize infringing products or equipment used in manufacturing infringing products and can obtain information about the source of goods being distributed. Businesses exporting



products to Ghana that carry a high risk of infringement are encouraged to engage the relevant ministries and offices relevant to their product, including Customs and the CCU.

### **The Registrar-General Department (RGD)**

The RGD is the starting point for any IP registration. Rights-holders who register their trademarks, patents, industrial designs, layout-designs and geographical indications with the RGD prior to entering the Ghanaian market have greater success in protecting and enforcing their rights. The IP office within the RGD currently does not have any enforcement authority, but is instrumental in the initial phase of protection. Registering creates a *prima facie* case for the first to file. In practice, the RGD is most effective in providing evidence of registry for legal actions and conducting informational workshops in conjunction with rights-holders.

#### Contacting the Registrar-General Department:

Director of Department of Intellectual Property

Mr. Joseph Tamakloe Esq.

Tel: +233-(0)302-664-691-93

Fax: +233-(0)302-662-043

Email: [jtamakloe@gmail.com](mailto:jtamakloe@gmail.com)

Website: <http://rgd.gov.gh/>

### **The Customs Division of the Ghana Revenue Authority (Customs)**

Customs is the first enforcement agency that products entering Ghana will encounter. Customs was established under the Customs, Excise and Preventive Service Law in 1986 as an autonomous Public Service institution, and operates under the Customs, Excise, and Preventive Service (Management) Law 1993, PNDLC 330 under the Ghana Revenue Authority within the Ministry of Finance. Customs operates at the borders and ports and is charged with policing Ghana's imports to prevent infringing and otherwise illicit products from entering the country. Customs is also responsible for the collection of import duties, import VAT, export duties and taxes. Rights-holders may approach Customs for assistance in combating infringement. Customs agents can stop shipments at the borders, conduct raids, seize counterfeit or pirated materials and arrest persons in possession of infringing goods. Customs maintains a list of service centers throughout Ghana that address customs issues at <http://www.gra.gov.gh>.

Contacting Customs:

The Ghana Revenue Authority

Tel: +233-(0)302-686106 / 684363

Fax: +233-(0)302-681163

Website: <http://www.gra.gov.gh/>

**The Commercial Crime Unit (CCU) of the Criminal Investigation Department (CID) of the Ghana Police Service**

The CCU is designated to investigate commercial crimes, including IPR infringement. Upon receiving a tip-off that IPR infringement is occurring, the CCU conducts an investigation to ascertain that the products are infringing. Upon establishing that the goods are indeed infringing, the CCU conducts raids with other relevant government agencies, such as the FDB and the GSB. Rights-holders or rights-holder representatives may also participate. While the CCU has the power to arrest and charge offenders, it does not destroy any infringing goods absent a final judgment on the merits of the case and a court order for destruction of the goods.

Contacting the CCU:

Tel: +233 (0)302 76 17 34

Website: [http://www.ghanapolice.info/submit\\_tips.htm](http://www.ghanapolice.info/submit_tips.htm)

**The Copyright Administration (Copyright Office)**

Operating under the Copyright Act within the Ministry of Justice, the Copyright Office, working directly under the Attorney General, is responsible for registering copyrights and implementing the relevant laws and regulations. The Copyright Office is also responsible for investigating and redressing cases of infringement and settling disputes that have not been reserved for the Copyright Tribunal, which has yet to be established. The Copyright Regulations, passed in March 2010, established the fees, jurisdiction and powers of the Copyright Tribunal. The Copyright Tribunal, once constituted, will have the power to hear disputes concerning licensing schemes and licensing bodies.

Contacting the Copyright Office:

Acting Copyright Administrator

Ms. Yaa Akyena Attafuah

Tel: +233-(0)302-229-190

Fax: +233-(0)302-224-282

Email: [info@copyright.gov.gh](mailto:info@copyright.gov.gh); [copyright@ghana.com](mailto:copyright@ghana.com)

Website: <http://www.copyright.gov.gh/>

## **The Food and Drugs Board (FDB)**

The FDB operates within the Ministry of Health under the Food and Drugs Act 1992 (FDA). Under the FDA, all foods and drugs manufactured in or imported into Ghana must register with the FDB. For rights-holders that are engaged in the import, export or manufacture of food, drinks, health aids, cosmetics or pharmaceuticals, the FDB should be one of the first agencies to establish a relationship with upon entering the Ghanaian market. The FDB is charged with ensuring the safety of food and drugs sold on the Ghanaian market. The FDB is divided into the Food Division and the Drugs, Cosmetics, Devices and Chemical Substances Division. Each division monitors the quality of output and retail of its respective products. Infringing products violate the Board's mandate, thus the FDB actively participates in anti-counterfeiting measures including investigation, testing, raids and arrests. The majority of the FDB's actions are directed towards passed off goods, as the practice of passing off is more common than outright counterfeiting.

The FDB has a Post-Market Surveillance Unit (FDB Surveillance Unit) that monitors foods, household chemicals, pharmaceuticals, medical devices and cosmetics that are being sold on the Ghanaian market. The FDB Surveillance Unit acts as the enforcement and investigative component of the FDB. The FDB Surveillance Unit works together with the Pharmacy Council to investigate claims of counterfeit, expired, or fraudulently advertised health related goods being sold, warehoused or distributed. The Pharmacy Council is not endowed with the power to seize infringing or otherwise illicit products, but is authorized to close delinquent pharmacies and licensed chemical sellers and to recall products from their shelves.

The FDB also maintains the National Drug Quality Control Laboratory, which collaborates with United States Pharmacopeia Drug Quality and Information Program, the U.S. AID-funded pharmaceutical quality assurance program.

### Contacting the FDB:

Chief Executive Officer

Dr. Stephen K. Opuni

Tel: +233-(0)302-229-261 (direct); +233-03021-233200 / 235100 / 225502

Fax: +233-(0)302-229-794

Email: [skopuni@fdbghana.gov.gh](mailto:skopuni@fdbghana.gov.gh); [fdb@fdbghana.gov.gh](mailto:fdb@fdbghana.gov.gh)

Website: <http://www.fdbghana.gov.gh/>

Contacting the Pharmacy Council:

Educational & Training Department

Tel: +233-(0)302-680-150; +233 (0)21-681931

Fax: +233-(0)302-681-931

Email: [info.etd@pharmacycouncilghana.org](mailto:info.etd@pharmacycouncilghana.org)

Premises Licensing & Enforcement Support

Tel: +233-(0)302-680-150; +233 (0)21-681931

Fax: +233-(0)302-681-931

Email: [info.etd@pharmacycouncilghana.org](mailto:info.etd@pharmacycouncilghana.org)

Information Management & Research (Can give relative locations of many of the pharmacies and licensed sellers)

Tel: +233-(0)302-680-150; +233 (0)21-681931

Fax: +233-(0)302-681-931

Email: [info.etd@pharmacycouncilghana.org](mailto:info.etd@pharmacycouncilghana.org)

Regional Offices Coordination and National Inspection

Tel: +233-(0)302-680-150; +233 (0)21-681931

Email: [info.imred@pharmacycouncilghana.org](mailto:info.imred@pharmacycouncilghana.org)

**The Ghana Standards Board (GSB)**

The GSB operates within the Ministry of Trade and Industry under the Standards Authority Act, 1973 and the subsequent Labeling Rules Amendment of 1992. The GSB develops and promulgates the standards by which all manufactured and imported products must comply. The GSB is further charged with ensuring that all products that enter the country comply with its standards. The GSB Destination Inspection Department (DID) and the GSB's Market Surveillance Group monitor and enforce the Board's mandate of protection of the Ghanaian population. The GSB actively collaborates with Customs, the FDB and other regulatory bodies in its inspection, testing and monitoring activities.

All shipments arriving at Ghana's entry points are checked by the DID and contracted inspection companies. The DID randomly samples shipments for quality testing; upon passing these initial tests, products are forwarded to Customs for further inspection and clearance. Certain products that are classified as high risk goods (HRGs) must be duly registered with the GSB prior to importing into Ghana. For a list of HRGs, go to <http://www.gsb.gov.gh/site/home>. Additionally, the GSB regularly deploys the Market Surveillance Group to inspect products being sold to the public to ensure that they are in compliance with the requisite standards. The GSB will inspect and sample non-health related goods at the entry points, and if those goods are found to be infringing at the inspection and sampling stage, the GSB has authorization to seize them. The Market Surveillance Group, however, typically reserves investigation and seizure actions for goods that are health related. For non-health related goods, Customs or the Copyright Office may offer more effective market protection.

#### Contacting the GSB:

Director

Mr. Adu Darkwa

Tel: +233 (0)302-500231; +233 (0)302-500065/6; +233 (0)302-506992-6

Fax: +233-(0)302-500-231; +233-(0)302-500-092

Email: [info@gsb.gov.gh](mailto:info@gsb.gov.gh)

Website: <http://www.gsb.gov.gh/site/home/>

Contact Numbers for GSB Offices at Points of Entry:

Tema Port: +233 (0)303-201259/200841

Takoradi Port: +233 (0)312-3126717

Aflao : +233 (0)3625 231533

Elubo: +233 (0)3122 522565

Kotoka International Airport: +233 (0)302 1766389

## **ADDITIONAL RESOURCES**

### **Non-Governmental Organizations**

Several non-government organizations in Ghana play important roles in helping enforce IPR; including participating in public information campaigns, reporting suspected infringements and training government personnel. These organizations include: These organizations include:

- Business Coalition Against Counterfeiting and Illicit Trade (CACIT)  
<http://bcacit.com/home/index.php>
- Ghana Employers' Association (GEA)  
<http://www.ghanaemployers.com/>
- Institute of Packaging Ghana  
<http://www.iopg.org.gh/>
- The Association of Ghanaian Industries  
<http://www.agighana.org/>
- The Consumers' Association of Ghana  
Tel: (+233) (0)30 2784461; +233 (0)302 238042

Rights-holders may find it useful to work with one or more of these organizations in protecting their IPR.

## **SPECIFICS WITH RESPECT TO CERTAIN TYPES OF IPR IN GHANA**

The following sections discuss, in more detail, the Ghanaian IP regime with respect to the following IPR:

- Copyright
- Trademark
- Patent
- Industrial Designs
- Layout-Designs (Topographies)
- Geographical Indications

## **WHAT THE U.S. GOVERNMENT CAN DO IN INFRINGEMENT ACTIONS**

Rights-holders who discover that their rights are being infringed in Ghana should contact the U.S. Mission in Ghana or the Department of Commerce in Washington for assistance. Because intellectual property rights are private rights, the U.S. government can only provide limited direct assistance. In many cases, the U.S. government can provide businesses and rights-holders with information about navigating Ghana's legal system, lists of local investigative firms and attorneys and share our experience and expertise in Ghana. We cannot, however, provide U.S. companies with legal advice or advocate on a company's behalf where a matter is before a court or administrative agency.

When rights-holders encounter infringement of their IPR, they should hire local counsel and pursue a preliminary investigation themselves or through a contracted professional firm, keeping in mind that U.S. companies should comply with both U.S. and Ghanaian law. Once the initial investigation is complete, the rights-holder should determine whether it is worth pursuing further action, especially considering possible costs. Rights-holders will have the option to initiate actions or seek redress through either the judicial or administrative systems. Foreign rights-holders have had considerably less success in encouraging criminal prosecution of IPR violations, particularly when piracy is involved.

Once a rights-holder decides to pursue a remedy, the U.S. government will monitor the case if requested to do so. The Department of Commerce maintains a database of IPR disputes that U.S. companies bring to our attention. The U.S. government cannot intervene in these cases. We can, however, inquire about their status or contact government officials about concerns related to the effective administration of legal remedies available to rights-holders as a general matter. As with other types of commercial disputes, the U.S. government's efforts in assisting with IPR disputes are aimed at achieving a fair and timely resolution in accordance with international commitments and Ghanaian laws, and in advancing adequate legal and judicial protection for all parties.

To report an IPR-related trade complaint or get more information, call 1-866-999-4258 or submit an inquiry at [www.stopfakes.gov/form.asp](http://www.stopfakes.gov/form.asp)

The Department of Commerce's Trade Compliance Center (TCC) actively monitors and tracks trade barrier complaints filed by U.S. businesses. The TCC also maintains a trade barrier toolkit on its website, which provides comprehensive advice on dealing with trade problems. Companies seeking to file a trade barrier complaint with the TCC may do so online on the [TCC website](#).

***We strongly emphasize that the information provided in this Toolkit does not constitute legal advice and should not be a substitute for advice of legal counsel. Its intended purpose is to provide an overview of Ghana's IPR environment, available enforcement mechanisms and Ghanaian government offices sharing jurisdiction over IPR protection and enforcement. We recommend that U.S. companies seeking to do business in Ghana or facing IPR infringement issues in Ghana seek qualified U.S. and/or Ghanaian legal counsel in pursuing their rights through Ghana's IPR enforcement regime. The U.S. Government, the U.S. Department of State, the U.S. Department of Commerce, their employees and contractors assume no legal liability for the accuracy or completeness or usefulness of any information, resource or process contained disclosed herein.***